



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: CCB - 203230

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on September 22, 2021, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Dodge County Human Services regarding Child Care (CC), a hearing was held on November 4, 2021, by telephone.

The issue for determination is whether

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Children and Families  
201 West Washington Avenue  
Madison, WI 53703

By: [REDACTED]  
Dodge County Human Services  
199 Cty Rd DF  
Juneau, WI 53039

**ADMINISTRATIVE LAW JUDGE:**

Beth Whitaker  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dodge County.
2. On September 10, 2021, the petitioner filed an Access online application for FoodShare and Child Care benefits as a household of four.

3. On September 14, 2021 an eligibility interview was conducted and the agency processed the application using actual wages for Anthony and prospective wages for [REDACTED].
4. On September 14, 2021, the agency issued to petitioner a notice of Eligibility for Wisconsin Shares Child Care benefits, informing her that her application was denied effective September 1, 2021 because her income was over the program limit for a household of four.
5. On September 22, 2021 the Division received petitioner's request for hearing by facsimile.
6. On September 24, 2021, the agency received income verification information from petitioner in the form of a paystub submitted through the Access online portal, indicating gross budgeted wages of \$1,592 per month.
- 7.

### DISCUSSION

The Wisconsin Shares Child Care Subsidy Program is regulated under Wisconsin Statutes §49.155 and Wisconsin Administrative Code DCF Chapter 201. An applicant for CCB must meet the program's income guidelines to be financially eligible for Wisconsin Shares child care assistance. The income limit for new applicants, including cases that have closed for more than thirty days, is 185% federal poverty level (FPL) for the Assistance Group family size. See Wisconsin Shares Child Care Assistance Manual, §1.4.1.1; see also Wis. Stat. §49.155(1m)(c).

The income limit for an ongoing case is 200% of the federal poverty level ("FPL"). The income limit for a new request case is 185% of the federal poverty level. Financial eligibility ends when a household exceeds this limit for two consecutive months. In 2021, 185% of the FPL for a four person household was \$4,085. CC Handbook 1.4.1.1.

To determine financial eligibility effective September 1, 2021, the agency counted gross monthly income in the amount of \$2,408 for Anthony and \$3,440 for petitioner. The total household income, \$5,848 exceeded the program's gross income limit, \$4,085.

Petitioner testified at hearing that she began a new job in September, 2021 and got her first full check on October 8, 2021. She testified that she applied for CC seeking assistance for the month of September 2021 only, until she got her first full paycheck. She said that the gross income for her and her husband for September 2021 was less than \$2,600, well below the CC program income limit. She acknowledged that she was financially ineligible for October 2021 and thereafter but requested that she be found eligible for September 2021.

The agency correctly applied its rules requiring that it determine financial eligibility for this program using prospectively budgeted monthly income. The Child Care benefits program requires the use of the prospective budgeting test, which usually treats income by a multiplier to reflect estimated income for an average month that is 4.3 weeks long. When income fluctuates, an average is to be used to arrive at monthly income. See CC Handbook 1.4.5. There is no provision for using a partial month's income to determine eligibility. The agency must determine what the monthly income will be in the future, which it did in this case.

I do not have the authority to create an exception in this case and allow benefits to be determined based on a partial month's household income. I do not have the authority to disregard that rule in the interests of fairness or equity. It is the long-standing policy of the Division of Hearings & Appeals that administrative law judges do not possess equitable powers. See, *Wisconsin Socialist Workers 1976 Campaign Committee v. McCann*, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under the rules noted above, the petitioner's request fails. The appeal must be dismissed.

### CONCLUSIONS OF LAW

The agency correctly denied the petitioner's application for childcare benefits due to income exceeding the program income limit.

**THEREFORE, it is**

**ORDERED**

That the petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

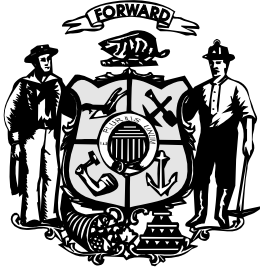
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 West Washington Avenue, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 20th day of January, 2022

\s\_ 

Beth Whitaker  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
5<sup>th</sup> Floor North  
4822 Madison Yards Way  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 20, 2022.

Dodge County Human Services  
Child Care Benefits